

REMARKS

In the Quayle Action mailed on October 7, 2009, Applicant was given one month to amend claims 43, 44, 46 and 47 so as to be independent form so as to be in condition for allowance in view of the decision of the Board of Patent Appeals and Interferences mailed on July 7, 2009. Accordingly, claims 43, 44, 46 and 47 have been amended so as to be in independent form and so should be allowed.

Claims 2-5, 8-10, 15, 18-22, 34 and 36 have been amended so as to change their dependencies from claim 7 to claim 43 or from claim 14 to claim 46. Since claims 43 and 46 have been deemed to be allowable, dependent claims 2-5, 8-10, 15, 16, 18-22 and 34-37 should be allowed since they now depend directly or indirectly on allowable claims 43 and 46.

New claims 48-65 depend from either claim 44 or claim 47. Since claims 44 and 47 have been deemed to be allowable, new claims 48-65 should be allowed. Note that the text of claims 48-65 generally corresponds to that of claims 2-5, 8-10, 15, 16, 18-22 and 34-37.

Note that claims 2-5, 8-10, 15, 18-22, 34, 36, 38, 40, 42 and 45 are being amended solely to provide additional coverage for the inventions of claims 43 and 46. Similarly, claims 48-65 are being presented solely to provide additional coverage for the inventions of claims 44 and 47. Accordingly, the amendments made to the claims and the addition of claims 48-65 are not being made for reasons related to patentability as defined in *Festo*

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Reply to Quayle Action of October 7, 2009


Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd., 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) (*en banc*), *overruled in part*, 535 U.S. 722 (2002).

Note that to the extent the amendments to claims 43, 44, 46 and 47 add subject matter that was inherently present in the previous version of the claims, the amendments are being made for reasons not related to patentability. *See, Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 535 U.S. 722 (2002).

CONCLUSION

In view of the arguments above, Applicants respectfully submit that all of the pending claims 2-5, 8-10, 15, 16, 18-22, 34-37, 43, 44 and 46-65 are in condition for allowance and seeks an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the undersigned attorney at (312) 321-4200.

Respectfully submitted,



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